FILED
3-25-15
03:39 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M).	Application 12-07-001 (Filed July 2, 2012)
And Related Matters.	Application 12-07-002 Application 12-07-003 Application 12-07-004

REVISED ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S RULING RE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY'S PROPOSED MODIFICATION TO DECISION 13-09-044 (ENERGY EFFICIENCY FINANCING PILOTS)

To reach the State's energy savings goals we need to reduce barriers to participation in Energy Efficiency (EE) programs. This is particularly true in hard-to-reach market segments such as building retrofits. One promising avenue that we have recently explored is leveraging ratepayer funds for additional private sector investment. In Decision (D.) 13-09-044 we approved a suite of EE Financing Pilot programs (finance pilots). These programs use ratepayer funds to incentivize financial institutions to lend money for efficiency investments.

As part of the implementation of the financing pilots, D.13-09-044 established an "administrative hub": the California Hub for Energy Efficiency Financing (CHEEF).[1] The CHEEF's role is to coordinate among various market participants, manage funds and data, and "increase the flow of private capital to energy efficiency projects" by offering a standardized open market.[2]

In D.13-09-044 we asked the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to be the CHEEF. CAEATFA was willing to take on that role.

While the Commission approved the Decision setting the pilot design and budget allocation in September of 2013, CAEATFA only obtained Legislative budget authority to act as CHEEF last July. The investor owned-utilities (IOUs) that the Decision ordered to fund the CHEEF operations could not provide CAEATFA with funds until last September, when the IOUs executed contracts with CAEATFA. Only then was CAEATFA able to begin hiring staff, contracting with a master servicer and trustee bank to create the CHEEF.

This January, CAEATFA's board approved contracts with:

- U.S. Bank Global Trustee Services (as trustee bank for the CHEEF); and
- Concord Serving Corp. (as master servicer for the CHEEF).[3]

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[1] D.13-09-044 at 65.

[2] D.13-09-044 at 3.

[3] Both contracts require approval by other state agencies. Approval is pending.

In addition, CAEATFA's board approved emergency regulations for the Residential Energy Efficiency Loan (REEL) Assistance Program (single family loan loss reserve pilot)[4] on February 17, 2015. The Office of Administrative Law (OAL) notified CAEATFA on March 9, 2015 that OAL had approved the emergency regulations.

On March 9, 2015, CAEATFA sent the attached letter (March 9 letter) to the Commission's Energy Division Director. In the March 9 letter, CAEATFA asks for a variety of "modifications to [D.13-09-044] that would help support the success of the [finance pilots]."

Ordinarily the vehicle by which one would seek to modify a Commission Decision is a Petition for Modification pursuant to Commission Rule of Practice and Procedure 16.4. With respect to sister agencies such as CAEATFA, however, we have accepted alternative methods of requesting modifications.[5] The March 9 letter largely[6] conforms to Rule 16.4's requirements. Accordingly,

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[4] CAEATFA held several public meetings to gather stakeholder input on program design.

In October 2014, CAEATFA held three regional lender and contractor roundtables to discuss the preliminary structure of the REEL Assistance Program.

In December 2014, after incorporating public input, CAEATFA held a workshop on the proposed emergency regulations for the REEL Assistance program. CAEATFA released a second draft of the proposed regulations for additional public comment on January 20, 2015.

[5] *See*, *e.g.*, Decision 04-10-020 at 5: "On April 17, 2003, DWR submitted a memorandum requesting that the Commission consider two modifications to D.03-04-029 and the Operating Agreements. Procedurally, DWR's April 17, 2003, memorandum will be treated as a Petition for Modification of D.03-04-029."

[6] The one caveat is that the March 9 letter does not contain "*specific wording* to carry out all requested modifications to the decision," (*emphasis added*) as required by Rule 16.4. Nonetheless, what CAEATFA wants appears sufficiently clear to allow parties to respond to it

Footnote continued on next page

IT IS RULED that:

1. We will treat the March 9 letter as a Petition for Modification.

2. Responses to the March 9 letter must be filed by Friday, April 3, 2015. Responses must be served on the California Alternative Energy and Advanced Transportation Financing Authority and on all parties to the service list in these consolidated proceedings.

3. The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) may reply to responses to the March 9 letter. CAEATFA's reply (if any) must be served[7] by Friday, April 10, 2015.

Dated March 13, 2015, at San Francisco, California.

/s/ CARLA J. PETERMAN	/s/ TODD O. EDMISTER
Carla J. Peterman	Todd O. Edmister
Assigned Commissioner	Administrative Law Judge

as-is. If parties are unclear on what modifications to D.13-09-044 would flow from our adoption of CAEATFA's recommendations, then parties should discuss in their responses.

[7] We are only requiring that CAEATFA *serve* its reply on the electronic service list in proceedings Application 12-07-001 et al. CAEATFA is not a party to these consolidated proceedings, and we are not requiring CAEATFA to become a party or to file its reply. We will place CAEATFA's reply, if any, in the correspondence file.

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

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March 9, 2015

Mr. Edward Randolph
Director, Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Proposed Modifications to Decision 13-09-044 Implementing the Energy Efficiency Financing Pilot Programs

Dear Mr. Randolph:

The California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") appreciates the opportunity to offer input based on its experience to date in designing the California Hub for Energy Efficiency Financing ("CHEEF") Pilot Programs. As CAEATFA is now several months into its collaboration with Commission staff, the investor-owned utilities ("IOUs"), lenders, contractors, and other stakeholders, it has identified several components of Decision 13-09-044 Implementing the Energy Efficiency Financing Pilot Programs ("the Decision") that present challenges to program development and implementation. Descriptions of several of the key challenges that provide opportunities for streamlining program implementation are provided below in order of priority, along with recommended modifications to the Decision that would help support the success of the pilot programs.

I. Extension of the Pilot Term

The Decision identifies an initial pilot term through December 2015. In August 2014, President Michael R. Peevey issued an Assigned Commissioner's Ruling clarifying the Commission's intent for the pilots to be operational for a minimum of 24 months each.

To serve as the CHEEF, CAEATFA must receive reimbursement and expenditure authority each year through the State's legislative budget process. CAEATFA requests that additional clarification be provided by the Commission to support these budget requests. Specifically, CAEATFA suggests the following:

A. *Further clarification on the commencement of the 24-month term of the pilot programs is necessary for implementation and budget planning, as well as coordination with marketing, education, and outreach efforts.*

The Assigned Commissioner's Ruling stated that "[e]ach finance pilot shall operate for a minimum of 24 months, beginning at the point that each pilot program begins operation, and shall provide for support of loans made under the program for the duration of loan terms even if/when a pilot ends". Further clarification on the point at which the finance pilot term begins will assist CAEATFA in projecting budget needs, determining implementation logistics, and coordinating with the Center for Sustainable Energy to plan targeted marketing, education, outreach and training efforts at specific points in the development and implementation of the pilot programs.

After CAEATFA establishes program regulations for each of the pilot programs, lenders and contractors will need time to obtain their internal approvals to offer new financing products. As such, CAEATFA recommends that the 24-month term align with the enrollment of the first loan in the last pilot to launch. This timing would best reflect the concept of the programs being "operational" for at least 24 months each, and would ensure adequate time for data collection to evaluate program trends and effectiveness. Based on the current anticipated timeline that suggests the on-bill repayment pilots will launch in the third or fourth quarter of 2015, this interpretation would effectively establish a finance pilot term to last through the 2016-17 fiscal year, and into the 2017-18 fiscal year.

At this point, CAEATFA staff's budget projections show that the $7 million initially allocated ($5 million for the CHEEF's administrative costs and $2 million for education, outreach, and training of lenders and contractors) remains a sufficient level of funding to last throughout the 2016-17 fiscal year, and potentially longer.

B. *Formal acknowledgement of the pilot programs' continued administrative need for approximately 15 years beyond the end of the 24-month pilot term would support CAEATFA's ability to effectively administer the CHEEF.*

Because the pilots are offered as loan/lease support, the program funding needs to remain available in the reserve accounts throughout the full term or lifetime of the enrolled loans/leases, to maintain the promised assurance in the event a loan/lease is charged off and the lender or lease provider files a claim from its reserve account held at the trustee bank. CAEATFA anticipates that the need to maintain funding would carry on for approximately 15 years beyond the end of the pilot term. The Assigned Commissioner's Ruling issued on August 25, 2014 acknowledged that the administrative need would extend beyond the term of the pilots. In the proposed regulations for the Residential Energy Efficiency Loan Assistance

Mr. Edward Randolph
California Public Utilities Commission
March 9, 2015
Page 3 of 8

Program (previously referred to as the Single Family Loan Program), CAEATFA is allowing loans to be enrolled in the program for up to 15 years. This 15-year enrollment term will allow lenders the flexibility to offer loans with lower monthly payments, supporting the Decision goal of reaching low-to-moderate income borrowers.

While residential loans will be limited to 15-year enrollments, CAEATFA has not yet established requirements for the multifamily, small business, or non-residential programs. However, staff anticipates that the larger project sizes in these market sectors may benefit from longer-term financings.

In the upcoming State budget cycle for the 2015-16 fiscal year, CAEATFA is requesting two additional permanent positions to support the long-term administration of the pilot programs. These additional positions will assist in the development and implementation of appropriate controls and oversight measures to ensure program compliance and to safeguard the use of ratepayer funds. Responsibilities will include establishing internal quality control procedures; overseeing contracts with service providers under the CHEEF (master servicer, trustee, data manager, etc.); monitoring compliance and oversight functions related to lenders (processing claims, reviewing quarterly reports, data reconciliation, and site audits); implementing reconciliation processes and verifying compliance of trustee accounts; calculating adjustments to the lenders' reserve accounts; and other compliance and oversight responsibilities. Over time, the duties of these new positions will be modified to reflect the appropriate phase of program implementation, administration, and maintenance for the term of the enrolled loans and other supported financings. CAEATFA will continue to evaluate costs and workload, and will adjust accordingly to maintain an appropriate level of oversight for the pilot programs while minimizing the cost impact to ratepayers.

CAEATFA appreciates the Commission's support in the effort to secure these resources that impact the longevity and appropriate oversight of the pilot programs.

II. Flexibility to Partially Enroll Loans

Based on experience and research of the market for energy efficiency lending, CAEATFA strongly believes that allowing for the partial enrollment of loans in the off-bill pilot programs will support increased transaction volume and overall impact and effectiveness of the pilots. Partial enrollment would enable lenders to offer loans for broader project scopes, while continuing to target and limit ratepayer-funded credit enhancements solely to eligible improvements as defined in the pilot program regulations. CAEATFA recommends that no limitations be placed on partial enrollment—specifically, CAEATFA encourages the Commission to allow projects to include the installation of other home improvements and distributed generation technologies as part of the non-enrolled (not credit-enhanced) portion of a loan/lease. Since credit enhancements only apply to the enrolled portion of the loan, ratepayer funds would not be supporting the non-enrolled portion of the loan.

As discussed in Decision 13-09-044, a borrower may be more likely to take on an energy efficiency project while also completing other home improvements. The availability of lower-cost financing may encourage a borrower to take on retrofits that help achieve greater energy savings.

In its implementation of the Clean Energy Upgrade Financing Program, and in conducting initial stakeholder workshops on the CHEEF Pilot Programs, CAEATFA staff heard from several lenders and contractors that inclusion of solar photovoltaic systems would increase the transaction number of projects eligible for program enrollment. Moreover, borrowers taking loans for solar improvements may be more likely to increase their project size and add on efficiency measures if they can secure loans with better terms (an expected outcome of the risk assurance provided by the credit enhancements in the pilot programs). By increasing the number of lenders and financial products available in the market, competition will impact the affordability of financing and the likelihood of increased (and deeper) energy efficiency transactions.

Without the ability to partially enroll loans, a borrower with a broader-scope project would end up taking out two separate loans to cover the full scope of project improvements. This would increase administrative work and costs for the lender, likely decreasing the attractiveness of the program, and ultimately passing additional costs on to borrowers.

Notably, CAEATFA believes that partial enrollment is less critical to the success of the programs including on-bill repayment ("OBR"), since a partially-enrolled OBR loan would require a borrower to make two separate monthly payments for a single loan, as if they had two separate loans. As such, the reduction in administrative cost and the streamlined process resulting from partial enrollment have less of an impact for OBR loans.

III. Broadened Scope of Eligible Energy Efficiency Measures ("EEEMs")

Decision 13-09-044 requires that eligible measures be based on existing IOU rebate and incentive program eligibility. Based on stakeholder feedback, CAEATFA recommends that the Decision be modified to incorporate the changes described below.

A. *EEEMs that are package measures for rebate/incentive programs should be individually eligible for financing.*

In its development of the residential program, it has come to CAEATFA's attention that the current list of EEEMs does not allow for the installation of a single measure that is eligible for rebate/incentive through a package (i.e. Home Upgrade or Advanced Home Upgrade project), unless that measure is also individually eligible for a rebate. CAEATFA recommends that the Commission consider explicitly allowing these measures to be eligible for financing as part of the 70% portion of the loan attributed to EEEMs. CAEATFA staff has received input from stakeholders suggesting that the current approach may limit lenders' ability to enroll the full scope of broader energy efficiency improvement loans that they hope and intend to offer. Examples of measures that fall under this category include windows, insulation, and cool roofs.

B. Universal EEEMs across all IOU territories would improve program accessibility and transaction volume.

Currently EEEMs must align with existing rebate/incentive program eligibility, which results in each IOU having a different list of eligible measures. This level of segmentation adds complexity to the program that may negatively impact lender and contractor participation, as they do not necessarily offer their products or services within the confines of a given IOU territory. To better support efficient program administration and increase transaction volume, CAEATFA recommends that the Commission consider allowing the financing pilots to operate with one uniform list of eligible measures applicable across all IOU territories. This streamlining will allow lenders and contractors to develop standardized procedures and products that they may choose to make available throughout the state; such efficiencies facilitate increased lending activity and program participation.

Creating a broader list of eligible measures for financing, regardless of the distinct unique rebate measures in each IOU territory, will assist in streamlining and standardizing the enrollment process, encouraging more transactions and creating a more efficient program.

IV. Removal of Requirement to Competitively Select Lease Providers for Small Business Pilots

In conducting research on the current state of the energy efficiency equipment leasing industry, CAEATFA staff understands that the market for lease products has undergone significant growth over the past few years. Since the issuance of Harcourt Brown & Carey's initial recommendation on the design of the pilot programs, a significant number of lease providers have entered the market and are offering different types of lease products. CAEATFA staff understands that energy efficiency lease volume has significantly increased, lessening the weight of the original intent to limit the number of lease providers to ensure that those selected had a reasonable market share.

As a result, CAEATFA recommends that the Decision be modified to remove the requirement that CAEATFA select two to four lease providers via issuing a Request for Proposals (RFP). If this competitive selection requirement is not removed, CAEATFA will be forced to rate lease providers based on an apples-to-oranges comparison, which is not an effective way of determining the best lease products for the market.

CAEATFA staff anticipates that removal of this requirement will facilitate increased lease provider participation, program transaction volume, and lease product availability. The additional market competition would also help drive the cost of leases down. In the RFP development process, CAEATFA staff is limited in its ability to gather information from industry stakeholders due to potential conflicts of interest with prospective bidders. Public input gathered through the rulemaking process will help ensure that the program is structured to support the most diligent and effective use of ratepayer funds. The program regulations would include parameters for participation, such as requirements for lease providers and lease products. The approach would be similar to that of the other pilots, under which CAEATFA will enroll lenders that meet the minimum qualifications and set minimum underwriting criteria for eligible loans.

V. Clarification Regarding the Inclusion of Government Entities as Eligible Borrowers in the Non-Residential OBR Pilot

CAEATFA understands that there is interest from stakeholders in allowing government buildings to participate in the non-residential OBR pilot. Given the limitations on loan size in the existing IOU On-Bill Financing programs, CAEATFA staff believes that this pilot could help bridge the gap and encourage increased uptake of energy efficiency measures in government buildings. This would support the State's energy policy goals. CAEATFA interprets the Decision as allowing flexibility to include government entities as eligible borrowers under the non-residential OBR pilot; however, a modification to the Decision that further clarified this intent would be beneficial.

VI. Expansion of Eligible Financial Products and Credit Enhancement Support Structures

Throughout the program development process, CAEATFA has solicited public input on program design. As a result of input received and lessons learned during this process, CAEATFA makes the following recommendations:

A. Flexibility to broaden the types of financial products that are eligible to participate in the pilot programs will support innovation in financing structures and increased transaction volume.

The Decision explicitly allows for the inclusion of loans and leases under the pilot programs. In conducting research on the various markets that the programs will serve, CAEATFA staff believes that there may be other types of financial product structures currently available in the market that would benefit from the support offered through the programs. CAEATFA requests that the Commission allow flexibility in designing the programs to serve structures other than loans and leases, as this may support a more diverse range of market needs. For example, several stakeholders have cited that inclusion of energy service agreements and similarly structured products would be beneficial in spurring market activity. CAEATFA will continue to solicit feedback from the Commission and stakeholders to ensure that ratepayer funds are effectively used in these efforts.

B. Flexibility to offer different types of financial support or credit enhancements may be beneficial to designing programs that meet market needs.

Currently, the Decision explicitly mentions and authorizes the use of loan loss reserve and debt service reserve fund mechanisms to serve as credit enhancements. In soliciting stakeholder input and researching other programs that support investment in energy efficiency, CAEATFA staff finds that there may be other credit enhancement and/or support structures that meet the market facilitation purpose of the pilot programs. CAEATFA requests that the Commission explicitly provide it with the flexibility to design different types of credit enhancement and support structures. CAEATFA will continue to solicit feedback from the Commission and stakeholders to ensure that ratepayer funds are effectively used in these efforts.

VII. <u>Modifications to the Process for Revising the On-Bill Repayment Tariffs</u>

Finding 8 in CPUC Resolution E-4680 states that "[t]he CPUC might need to make changes to these tariffs after CAEATFA conducts its rulemakings and lender workshops, and the master servicer is hired and able to articulate detailed needs and specifications for communicating between lenders and the Joint Utilities." Moreover, Ordering Paragraph 5 requires that the IOUs "refile these approved tariffs within 30 days after CAEATFA hires the master servicer, making revisions directed by Commission staff, if Commission staff in consultation with CAEATFA determine it is necessary to make revisions."

CAEATFA understands that time is of the essence in launching the Pilot Programs. In addition, CAEATFA agrees that gathering public input would be valuable in shaping the OBR process (which is heavily impacted by the tariffs) in a way that is attractive to lenders. To allow adequate time for CAEATFA's and the CPUC's deliberations, and for the IOUs to subsequently incorporate required revisions, CAEATFA suggests that the Commission modify the process for the OBR tariff refilings. Such a revision should simply require that within the first 30 days of the Master Servicer being on-board, the CPUC and CAEATFA will consider whether changes to the OBR tariffs are necessary and communicate any requested changes to the IOUs. Instead of tying the OBR tariff refilings to the initial 30 day period, the trigger date could be within 15-30 days of receiving requested amendments to the tariffs from CPUC staff and CAEATFA. This discrete amount of additional time on the front-end of the process will likely help avoid substantive hurdles related to OBR in the future.

In addition, CAEATFA requests further clarification on the process by which future modifications to the OBR tariffs could be made. Stakeholder engagement is an ongoing process throughout program development. CAEATFA Staff would like to develop a strong understanding of the regulatory processes and tools available for incorporating important lessons learned for the benefit of the Pilot Programs.

Mr. Edward Randolph
California Public Utilities Commission
March 9, 2015
Page 8 of 8

VIII. Conclusion

Thank you for your consideration of the modifications suggested herein. CAEATFA looks forward to its continued collaboration with the Commission and its staff to successfully deliver the CHEEF Pilot Programs. As CAEATFA continues in the program development process, CAEATFA staff will continue to communicate updates and challenges to Commission staff. If you have any questions or would like to further discuss any of the recommendations offered in this letter, please do not hesitate to contact me at (916) 651-5102 or deana.carrillo@treasurer.ca.gov.

Respectfully submitted,

Deana J. Carrillo

Deana J. Carrillo
Executive Director, CAEATFA

cc: Michael Picker, President, CPUC
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